

Statement of Congressman Pete Stark Recognizing the Retirement of Thomas J. Orloff

Thursday, 22 October 2009

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For the Congressional Record

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Madam Speaker, I rise to congratulate and honor Thomas J. Orloff on his recent retirement as district attorney of Alameda County. A third generation resident of Alameda County, his 15 years as district attorney capped an extraordinary career of 40 years of service as a prosecutor on behalf of the people of both Alameda County and California. Mr. Orloff joined the Alameda County District Attorney's office in 1970 after graduating from the University of California's Boalt Hall School of Law. He distinguished himself as a trial lawyer, prosecuting many high profile cases including leaders of the Black Panthers and the notorious BGF prison gang. In addition to his trial prosecutions, Mr. Orloff served in many supervisory and administrative capacities including 5 years as the chief assistant district attorney.

Tom Orloff was elected district attorney, without opposition, in June 1994 and has been re-elected in June 1998, June 2002, and in June 2006, all unopposed. During his tenure, he established special units to emphasize prosecutions of domestic violence, stalking, gang violence, real estate fraud, and abuse of the elderly while expanding ongoing efforts to combat public assistance fraud, sexual assault and consumer and environmental crimes. Unlike most elected district attorneys, Tom recently personally tried and obtained the conviction of a street gang member who murdered San Leandro police officer Dan Niemi.

In addition to his work in Alameda County, Tom has given his time to the California and national prosecutors associations, serving as president and on the board of directors of the California District Attorney's Association and as a member of the board of directors of the National District Attorney's Association. Among many legal honors, he has been selected as a Fellow in the American College of Trial Lawyers. Active in Alameda County as well, Tom has for many years served on the board and as treasurer of the One Hundred Club which provides financial support to the survivors of Alameda County police officers and firefighters who are killed in the line of duty and on the advisory board of the Boys and Girls Club of Oakland.

Most importantly, I would like to commend Tom Orloff on his stewardship of the finest prosecutor's office in the country. Every day, since taking office in January 1995 Tom sat down behind the same desk Earl Warren used when he served as Alameda County District Attorney from 1925-1939. He proudly displayed on his office wall a framed indictment signed by both Warren and another Thomas Orloff, Tom's grandfather, then the foreman of the Alameda County grand jury. As only the fifth Alameda County District Attorney since Warren, Tom has guided a prosecutor's office that has seen

remarkable stability and has been characterized by its innovation, creativity, and remarkable commitment to the highest ethical standards.

Prosecutors are the only lawyers who are ethically bound to serve two masters. The public prosecutor, as Justice Sutherland put it in his United States Supreme Court opinion: "is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done. As such, he is in a peculiar and very definite sense the servant of the law, the twofold aim of which is that guilt shall not escape or innocence suffer. He may prosecute with earnestness and vigor--indeed, he should do so. But, while he may strike hard blows, he is not at liberty to strike foul ones. It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one." (Berger v. United States (1935) 295 U.S. 78, 88.)

Like Earl Warren and the four others who separate them, Tom Orloff has demonstrated a profound, personal commitment to the ethical administration of justice. More than anything else, this commitment, on the part of the elected district attorney, to ethics in criminal prosecution sets the Alameda County District Attorney's office apart from the rest. I know that Tom, while proud of his many personal accomplishments, takes his greatest pride and satisfaction in the office of the Alameda County District Attorney. In public life we are all too often confronted with many whose sole purpose in seeking or attaining public office often seems to be self-aggrandizement. Tom is that rare public servant who truly has served the public and who has put the interest of his office ahead of his own.

Tom has demonstrated courage and independence in making many hard and occasionally unpopular choices during his tenure as district attorney, authorizing the prosecution several years ago of several officers of the Oakland Police Department, known as the "Riders" who were accused of a variety of crimes including robbing, kidnapping and framing street-level drug dealers. Most recently, Tom filed murder charges against a Bay Area Rapid Transit police officer who shot and killed a BART passenger. The shooting was videotaped and received a very high level of publicity. This is reportedly the first murder charge lodged against an on-duty police officer in California history.

It should come as no surprise to learn that Tom Orloff has long led the way in hiring women and minority lawyers. Under his watch, and due to his personal commitment, the Alameda County District Attorney's office is now one of the most diverse prosecutor's offices in the country--a special challenge considering the debt most minority law school graduates carry and the small salaries starting prosecutors earn.

One of Tom's former colleagues wrote, many years before she became an associate justice of the California Supreme Court, "If our nation of laws is to remain both strong and free, we must have system of criminal justice in which every citizen can have confidence. The weight of maintaining this confidence falls on the shoulders of those lawyers who walk into court to represent the People. It is, as it should be, the highest calling of an American advocate." (Carol Corrigan, On Prosecutorial Ethics (1986) 13 Hastings Constitutional Law Quarterly 537.)

I have known Tom Orloff for many years. In the time he has served as Alameda County's district attorney he has given me the highest confidence that the administration of criminal justice in Alameda County was in the most capable hands possible. To me, he epitomized the prosecutor who always sought justice first. In determining whether to initiate criminal charges he always made what he felt was the right decision, not the popular decision. In the trial courtroom, he fought hard and he fought fair. More importantly, he instilled that ethic in all of his prosecutors. As a result, I share with the citizens of Alameda County an enduring and deeply felt confidence in the work of our criminal justice system. I wish Tom and his wife Pam a long, healthy and productive retirement.